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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,939	03/08/2005	Ulrich Mueller	267013US0PCT	7566
22850 7590 09/26/2007 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET			EXAMINER	
			WOOD, ELIZABETH D	
ALEXANDRIA, VA 22314			ART UNIT	PAPER NUMBER
			1755	
			NOTIFICATION DATE	DELIVERY MODE
			09/26/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com oblonpat@oblon.com jgardner@oblon.com

	Application No.	Applicant(s)				
	10/526,939	MUELLER ET AL.				
Office Action Summary	Examiner	Art Unit				
	Elizabeth D. Wood	1755				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	L. lely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status		/				
1) Responsive to communication(s) filed on	 '	/				
2a) ☐ This action is FINAL . 2b) ☒ This	This action is FINAL . 2b)⊠ This action is non-final.					
	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	3 O.G. 213.				
Disposition of Claims						
4) ☐ Claim(s) 14-34 is/are pending in the application 4a) Of the above claim(s) is/are withdraw 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 14-34 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or	vn from consideration.					
Application Papers						
9) The specification is objected to by the Examiner 10) The drawing(s) filed on is/are: a) access Applicant may not request that any objection to the of Replacement drawing sheet(s) including the correction of the original transfer of or the origina	epted or b) objected to by the Edrawing(s) be held in abeyance. See on is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priori application from the International Bureau * See the attached detailed Office action for a list of	s have been received. s have been received in Application ity documents have been receive (PCT Rule 17.2(a)).	on No ed in this National Stage				
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary Paper No(s)/Mail Da					
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>5/31/05</u> .	5) Notice of Informal Pa					

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Specification

The examiner has not checked the specification to the extent necessary to determine the presence of **all** possible minor errors (grammatical, typographical and idiomatic). Cooperation of the applicant(s) is requested in correcting any errors of which applicant(s) may become aware of in the specification, in the claims and in any future amendment(s) that applicant(s) may file.

Applicant(s) is also requested to complete the status of any copending applications referred to in the specification by their Attorney Docket Number or Application Serial Number, **if any**.

The status of the parent application(s) and/or any other application(s) cross-referenced to this application, if **any**, should be updated in a timely manner.

A brief description of the drawing should be provided in the specification.

Information Disclosure Statement

The document not considered on the PTO-1449 is not considered to have been adequately described by applicant. Only the cover pages and the subject index of the journal have been supplied, and it is therefore not apparent what information the examiner should consider.

Claim Rejections - 35 USC § 112/101

Claim 34 provides for the use of a catalyst, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant

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is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 34 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd.* v. *Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

The language "utilizing...as a catalyst" constitutes and "improper "use" claim that is not statutory and this claim has not been further treated on the merits. In the event that the claim is properly rewritten, it may be withdrawn from consideration as directed to a non-elected invention, and that office action will still be properly made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-33 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,919,430 to Hasenzahl et al. or WO 94/02245

The instantly claimed invention is directed to a process for making/treating a zeolite composition and the solid material obtained thereby.

Hasenzahl et al. disclose shaped TS-1 granules that are washed with deionized water after the granules are separated from the mother liquor. See particularly columns 6-7 and the examples, but the entire document is highly relevant due to the breadth of the cliams under examination. This disclosure is indistinguishable from the product cliams and from the process cliams requiring only washing. The additionally claimed steps present in some of the cliams such as crystallization, separating, calcining, and so forth are considered to be fairly taught by the Hasenzahl et al. disclosure. WO 94/02245 discloses a Ti-beta composition and method for the production thereof when the catalyst is post treated with steam prior to calcinations. See the entire disclosure, paying particular attention to the examples, the tables and pages 4-6. There is no apparent distinction in either the composition or the method for the production thereof between the instant cliams and either the teachings of Hasenzahl et al. or the WO 94/02245 document. Regarding claimed US/VIS characteristics, it is considered that such inherently flow from practicing the production method of the prior art.

Conclusion

Applicants are advised that any evidence to be provided under 37 CFR 1.131 or 1.132 and any amendments to the claims and specification should be submitted prior to final rejection to be considered timely. It is anticipated that the next office action will be a final rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth D. Wood whose telephone number is 571-272-1377. The examiner can normally be reached on M-F, 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 5712-72-1000.

Elizabeth D. Wood Primary Examiner Art Unit 1755 Page 5

EDW